

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Donald R. Hatcher, Jr.,)	C/A No. 3:17-cv-2535-DCC
)	
Plaintiff,)	
)	
vs.)	
)	ORDER
David J. Shulkin,)	
)	
Defendant.)	
_____)	

This matter is before the Court on Plaintiff's Complaint alleging violations Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, et seq., and the Americans with Disabilities Act, 42 U.S.C. §§12101, et seq. ECF No. 1. Defendant filed a Motion to Dismiss Plaintiff's first and second causes of action. ECF No. 9. Plaintiff filed a Response in which he agreed that these claims should be dismissed for failure to exhaust his administrative remedies, ECF No. 11, and Defendant filed a Reply, ECF No. 12. This Motion is now ripe for resolution.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), (D.S.C.), this matter was referred to United States Magistrate Judge Paige J. Gossett for pre-trial proceedings and a Report and Recommendation ("Report"). On January 25, 2018, the Magistrate Judge issued a Report recommending that the Motion to Dismiss be granted in light of the agreement of the parties that these two claims should be dismissed. ECF No. 18. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Plaintiff has filed no objections, and the time to do so has passed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court.

See Mathews v. Weber, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

After considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and agrees with the Report’s recommendation that the Motion to Dismiss the first two causes of action be granted without prejudice. Accordingly, the Court adopts the Report by reference in this Order. Defendant’s Motion to Dismiss [9] is granted without prejudice.

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.
United States District Judge

February 20, 2018
Spartanburg, South Carolina